

## Financial Policy

**Applies to:** W-2 Agencies

**Issue Date:** February 3, 2003

**Topic:** Purchase of Service/  
Subcontracting

**Effective Date:** February 3, 2003

**Purpose:** Wisconsin Works (W-2) Agencies may purchase any of the services covered in their W-2 Contract. To implement this statement, the Agency must enter into a subcontract for these services from another organization. The following manual material provides the guidelines for this activity.

### A. Definitions

1. Wisconsin Works (W-2) Agency – The Agency that has entered into a Wisconsin Works (W-2) and Related Programs Contract with the State of Wisconsin Department of Workforce Development for a specified period of time.
2. The Contract – The abbreviated term referring to the W-2 and Related Programs Contract
3. Subcontract – A written document between the W-2 Agency and some other entity for the provision of some or all of the services covered in the Contract for payment. This can include payments to an agency that are part of a consortium arrangement. It is not necessary for the document to be titled “subcontract” to be covered by this policy.
4. Provider – For the purposes of this discussion, a provider is the individual or agency who supplies the services covered in the Contract (a more complete discussion may be found in the Contract under Section D. Conditions for Subcontracting).
5. Vendor – For the purposes of this discussion, a vendor provides supplies, goods or services to run the Agency. These supplies, goods or services are available to the general public and could be paper and pencils, a course at the local technical college, a security deposit, car repairs, etc. A subcontract would not be needed in these situations (a more complete discussion may be found in the Contract under Section D. Conditions for Subcontracting).
6. Material – This is an auditing term used to define an item or action as significant to the Agency or the Agency’s operation.
7. Serial Purchases – Successive purchases that would normally be made as a single purchase but divided into separate purchases to avoid dollar restrictions.

### B. Introduction

The Wisconsin Works (W-2) Agency may procure services from other organizations to carry out their contractual responsibilities. To the extent the Wisconsin Department of Administration (DOA) makes procurement bulletins available to other units of government, those bulletins may be used.

The Contract details the conditions needed for obtaining Department of Workforce Development (DWD) approval of the W-2 Agency’s subcontracts.

The W-2 Agency may subcontract for some or all of the services covered by the Contract. A subcontract is required for the W-2 Agency to issue payments for services provided by a subcontractor. The W-2 Agency must comply with all subcontract requirements under the applicable State and federal laws and the Contract, including any applicable requirements in the DWD's Policies and Procedures. All subcontracts awarded by the W-2 Agency must be consistent with the W-2 Agency's obligations under the Contract. Subcontractors may also subcontract; the rules for subcontracts apply to all levels of subcontractor. The W-2 Agency is responsible for all subcontract performance.

## **C. Model W-2 Subcontract**

1. The W-2 Agency is expected to incorporate in their subcontracts all of the headings contained in the Model W-2 Subcontract found in this chapter of the *W-2 Financial Management Manual*.
  - a. The subcontract must be embodied in a written document executed by the W-2 Agency and subcontractor;
  - b. The subcontract must include a requirement that the subcontractor comply with the terms and conditions of the Contract;
  - c. The subcontract must specify the services to be provided, the budget for these services, per unit cost when appropriate, and the timeframe for the provision of the services.
  - d. The subcontract must include payment procedures.
  - e. The subcontract must include indemnity and insurance provisions, which includes workers compensation insurance.
  - f. The subcontract must include provisions contained in the Contract for Affirmative Action/Civil Rights Compliance if the subcontractor meets the following requirements:

Subcontracts estimated to be over \$25,000 require the submission of a written Affirmative Action Plan by the subcontractor. A subcontractor is exempt from this requirement if the subcontractor has a workforce of fewer than twenty-five (25) employees.
  - g. The subcontract must include provisions addressing whether the subcontractors may further subcontract any of the services contained in the Contract. Any subsequent subcontracts must meet all the provisions contained in the Contract.
  - h. The subcontract must not prohibit faith-based contracting.
  - i. The subcontract must include provisions for renegotiation, revision, or termination.
  - j. The subcontract must include provisions for dispute resolution.

- k. The subcontract must include provisions for the administration of records and reporting to the W-2 Agency.
  - l. The subcontract must assure adequate security for the network by meeting the standards set forth by DWD.
  - m. The subcontract must assure adequate steps have been taken to safe guard sensitive client and administrative information contained in DWD's automated systems by meeting the standards set forth by DWD in the Division's Security Manual.
  - n. The subcontract must permit authorized federal and state personnel to make on-site inspections to ensure those requirements of federal/state regulations are being met.
  - o. The subcontract must include provisions for an annual audit, whether the Agency is a governmental unit or a non-profit or a for-profit agency. The Agency is exempt from this requirement if its combined state and federal funding (from this subcontract and other direct contracts or subcontracts) is less than \$25,000 annually.
  - p. The subcontract must include certifications from subcontractors stating that the subcontractors are not federally debarred, suspended, or proposed for debarment.
  - q. The subcontract must include the lobbying compliance certification or the disclosure of lobbying activities form.
2. The subcontract must include a copy of the subcontractor's policies on employee bonuses.

## **D. Conditions for Subcontracting**

1. A subcontract is required when the provider supplies services the W-2 Agency is required to provide, e.g., assessment, counseling, referral, training, child care, transportation, or other similar services. If the W-2 Agency has reoccurring service needs from one subcontractor that individually may not be considered material but as a total are material, a subcontract is required.

A subcontract is not required if the W-2 Agency is purchasing materials from a vendor needed to operate its business, e.g., supplies, goods, or services that are available to the general public. For example, the W-2 Agency does not need to use a subcontract when purchasing car repairs, a taxi ride, or providing a participant's security deposit. However, a subcontract is needed if the vendor, as a component of doing business, arranges for transportation or housing for the W-2 Agency's participants. Further, a subcontract is not required if the total amount of the contract does not exceed \$10,000.

2. The W-2 Agency is expected to follow the procurement policies and procedures governing their Agency. The W-2 Agency must retain documentation of all purchases and subcontracts for future monitoring or audit.

3. The W-2 Agency shall not make serial purchases to avoid these policies.
4. The W-2 Agency shall establish appropriate instructions and monitoring procedures for ensuring each subcontractor's compliance with the provisions of the Contract, applicable state and federal laws, rules, and regulations and DWD's Policies and Procedures. The W-2 Agency remains responsible for the performance of any part of the Contract that is subcontracted. The Model W-2 Subcontract requires the W-2 Agency to monitor the subcontractor's performance to ensure that the subcontractor is adhering to requirements.

## **E. Technical Procedures**

1. The W-2 Agency must submit a copy of the signed subcontract to DWD's Contract Manager within fifteen (15) business days of signing the subcontract. The Contract Manager will acknowledge the receipt of the contract within five (5) business days.
2. The DWD Contract Manager must approve the subcontract format to assure the subcontract meets the guidelines set forth in this policy. This approval will determine if all of the conditions the components contained in the 'Model W-2 Subcontract' have been met. This approval must be obtained in order for the W-2 Agency to issue payment for services under the Contract. DWD's Contract Manager will contact the W-2 Agency of its decision within ten (10) business days, unless the W-2 Agency is otherwise notified.

If the subcontract is incomplete or does not meet the guidelines set forth in this policy, the Contract Manager will return the subcontract to the W-2 Agency within the ten (10) day time limit noting the area(s) in which the subcontract is deficient. The W-2 Agency must resubmit a copy of the signed completed subcontract to DWD's Contract Manager within fifteen (15) business days of signing the completed subcontract.

The W-2 Agency will be responsible for all service delivery costs incurred before DWD's Contract Manager provides its approval regarding the subcontract unless DWD's Contract Manager reviews and provides their approval in writing for the subcontract, the costs, and the reasons costs were incurred before and after the signing of the complete subcontract. Signatures on the subcontract may be given retroactive effect.

3. The W-2 Agency must provide a list of all current subcontracts to DWD's Contract Manager within ten (10) business days after each calendar quarter of the Contract period. This listing must include all of the elements contained in the "W-2 Subcontract Log" form that is attached to this *Manual* material. The Contract Manager will forward the Subcontracting Log to the W-2 Agency the last working day of the quarter.

See the following reference material for more information regarding a qualified State certified Minority Business Enterprise (MBE).

(<http://www.doa.state.wi.us/dsas/mbe/index.asp>)

The Optional Performance Standards for Faith-Based Contracts requires that services be delivered in order to qualify for this standard. It was determined that receipt by DWS's Contract Manager of a copy of one invoice from a Faith-Based Contractor

paid by the W-2 Agency will satisfy this requirement. This payment may be reported on the Log, along with forwarding a copy of the invoice.

4. DWD's Contract Manager will review the W-2 Agency's monitoring of its subcontracts and subcontractors.
5. If the W-2 Agency plans to use a related party in the provision of services under the Contract, the W-2 Agency agrees to comply with the DWD's Policies and Procedures concerning related party transactions. A related party transaction is defined in the DWD's *Wisconsin Works (W-2) Financial Management Manual* (Allowable Costs section).
6. The W-2 Agency may subcontract with faith-based organizations on the same basis as any other private organization.

The W-2 Agency shall not discriminate against an organization that is or applies to be a subcontractor on the basis that the organization has a religious character. The W-2 Agency shall not require the faith-based organization to alter its definition, development, practice or expression of its religious beliefs, nor shall it require the organization to alter its internal governance or remove religious art or any other expression of its religious belief in order to enter into a subcontract with or be awarded a contract from the W-2 Agency.

The W-2 Agency shall not discriminate against any W-2 or Related Programs applicant or participant on the basis of religious or lack of religious belief. Therefore, if the W-2 Agency subcontracts with a faith-based organization to provide any services to participants covered by the Contract, it must make available within a reasonable time an alternative provider of the same services, worth the same value, to any participant who objects to the religious character of the organization or institution from which the participant would receive or is receiving the service.

7. The W-2 Agency is encouraged to subcontract with qualified State certified Minority Business Enterprises (MBEs)  
<http://www.doa.state.wi.us/dsas/mbe/index.asp>.

## **F. Required Forms**

1. Included in this section are federally required forms for:
  - a. Debarment (Certification regarding Debarment and Suspension)
  - b. Lobbying Disclosure [2 forms - (1) Certification Regarding Lobbying and (2) Disclosure of Lobbying Activities (with Continuation Sheet and Instructions)]
2. The W-2 Agency must include these forms in any subcontract using W-2 funding and must obtain completed copies from subcontractors.